

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3933 OF 2004

Kisanveer Sahakari Sakhar
Karkhana Ltd., ..Petitioner.

Versus

1. Shri Laxmanrao P. Jadhav
Patil & Ors. ..Respondents.

Mr. C.J. Sawant with A.S.Desai for the Petitioner.
Mr. Vijay Patil for Respondent Nos. 1 & 2.
Mr. S.K. Chinchalikar, AGP for the Respondent Nos.
16 and 17.

WITH
WRIT PETITION NO. 3934 OF 2004

Kisanveer Sahakari Sakhar
Karkhana Ltd., ..Petitioner.
v/s.

Shri Arvind Dhondiram Kadam & Ors. ..Respondents.

Mr. C.J.Sawant with A.S.Desai for the Petitioner.
Dr.Vinayak K.Chowdhari for the Respondent Nos.1,3,4 &
7.
Mr. S.K. Chinchalikar, AGP for the Respondent Nos.
8, 10 and 11.

CORAM : S. A. BOBDE, J.
DATED : 20TH SEPTEMBER, 2005.

P.C.:

1. Both these petitions arise out of an order
passed under section 88 of the Maharashtra

Co-operative Societies Act. Initially by order dated 21.02.2004 passed by the Enquiry Officer, the respondents Nos. 1 to 13 in Writ Petition No. 3933/2004 were held responsible for causing loss to the extent of about Rs.71.35/- lacs on the ground that there was a dereliction of an obligation in as much as they failed to export the sugar which was meant for export.

2. In writ petition No. 3934/2004 the Enquiry Officer, held the respondents Nos. 1 to 9 responsible for causing the aforesaid loss jointly with the aforesaid respondents in the first mentioned writ petition.

3. The respondents filed an appeal under section 152 of the Co-operative Societies Act, which has been decided by the Appellate Authority i.e. the Chief Minister and Minister for Co-operation on 24.03.2004. It is this order passed in the appeal has been challenged by the petitioner which is a specified Co-operative Society under section 73(g) of the Maharashtra Co-operative Societies Act, 1960.

4. Having heard the matter for some time, it is clear that the learned Chief Minister has reversed the

order of the Enquiry Officer on the basis of the report of the three member committee, which has observed, after inspecting the said sugar, that the sugar is not fit for export and therefore, it was sold in the open market and therefore, there was no question of exporting the same and producing proof of the export of the same. The appellate authority has further observed that the Karkhana has received a sum of Rs. 1035/- per quintal. In addition, according to the decision of the three member committee the Karkhana had received a sum of Rs.8/- lacs at the rate of Rs.20/- per quintals as compensation and therefore, it cannot be said that the Karkhana had suffered a loss. The learned Chief Minister has reversed the order of the authorised officer since the authorised officer failed to take into account this fact.

5. Mr. Sawant, the learned counsel for the petitioner fairly accepted the position that this is basically a question of fact i.e. whether the sugar was fit for export or not.

6. In the circumstances, having regard to the fact that the order is based on the report of the three member committee that the loss is not attributable to the aforesaid respondents but due to

the fact that the sugar was not fit for export, I see no reason to interfere with the impugned order. The order does not suffer from any error of law apparent on its face and therefore, both the petitions are dismissed with no order as to costs.

DT.20.09.05

(S.A.BOBDE, J)

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